

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

BANK OF NEW YORK MELLON,

Plaintiff,

v.

WARREN KLINT,

Defendant.

CASE NO. C16-1440-JCC

ORDER REMANDING TO STATE
COURT AND IMPOSING
SANCTIONS

This matter comes before the Court on Defendant Klint’s notice of removal as to King County Case Number 15-2-17800-8-SEA (Dkt. Nos. 1 and 2) and Plaintiff Bank of New York Mellon’s motion to remand and motion for sanctions and a vexatious litigant order (Dkt. No. 6). Having thoroughly considered the parties’ briefing and the relevant record, the Court finds oral argument unnecessary and hereby GRANTS Plaintiff’s motion to remand, motion for sanctions, and enters a vexatious litigant order (*Id.*) against Klint for the reasons explained herein.

I. BACKGROUND

This is the fourth time Klint has attempted to remove this litigation, and the three previous attempts were unsuccessful. *See Bank of New York Mellon v. Klint*, C16-0017-RAJ (Dkt. No. 12 at 3) (finding this Court lacks jurisdiction); *Bank of New York Mellon v. Klint*, C16-0588-RSL (Dkt. No. 11 at 1) (concluding Defendant fails to justify his repeated attempts at removal); *Bank of New York Mellon v. Klint*, C16-1192-JCC (Dkt. No. 5 at 1–2) (finding current

1 removal “patently meritless” and warning Defendant that further attempts at removal may result
2 in sanctions under Fed. R. Civ. P. 11).

3 **II. DISCUSSION**

4 **A. Purpose of Removal**

5 The purpose of removal to federal court based on diversity jurisdiction is to give a
6 nonresident defendant, who has been unwillingly brought into a state court, the right to remove
7 to the presumably unprejudiced forum of the federal court. *Browne v. Hartford Fire Ins. Co.*,
8 168 F. Supp. 796, (N.D. Ill. 1959). Alternatively, removal is proper if the claim arises “under the
9 Constitution, treaties, or laws of the United States.” 28 U.S.C. § 1441(a)-(b). The purpose of
10 removal is not to repeatedly delay litigation. “Flagrant abuse of the judicial process cannot be
11 tolerated because it enables one person to preempt the use of judicial time that properly could be
12 used to consider the meritorious claims of other litigants.” *See De Long v. Hennessey*, 912 F.2d
13 1144, 1148 (9th Cir. 1990). The Court finds that Klint establishes no basis for federal jurisdiction
14 and his repeated attempts at removal are nothing more than a delay tactic. The Court hereby
15 REMANDS this case to King County Superior Court.

16 **B. Sanctions and Vexatious Litigant Order**

17 This Court previously warned Mr. Klint that a fourth attempt to improperly remove his
18 case to federal court would result in sanctions. *Bank of New York Mellon v. Klint*, C16-1192-JCC
19 (Dkt. No. 5 at 1–2). The Court hereby GRANTS Plaintiff’s motion for sanctions (Dkt. No. 8) and
20 imposes sanctions in the amount of \$1,000, to be paid to the Plaintiff.

21 Plaintiff also asks this Court to enter a vexatious litigant order against Klint, requiring
22 him to seek and obtain this Court’s formal written permission before bringing any removal or
23 federal action in this case. (Dkt. No. 6 at 6.) District courts have inherent power to enter pre-
24 filing orders against vexations litigants. The All Writs Act, 28 U.S.C. § 1651(a); *Weissman v.*
25 *Quail Lodge, Inc.*, 179 F.3d 1194, 1197 (9th Cir. 1999). Prior to entering a vexatious litigant
26 order, the Court must consider four factors: (1) the litigant must be given notice and a chance to

1 be heard, (2) the district court must compile “an adequate record for review,” (3) the district
2 court must make substantive findings about the frivolous or harassing nature of the party’s
3 litigation, and (4) the vexatious litigant order “must be narrowly tailored to closely fit the
4 specific vice encountered.” *De Long v. Hennessey*, 912 F.2d 1144, 1148 (Fed. Cir. 1990).
5 Recently, this Court directed Klint to show cause why a vexatious litigant order should not be
6 entered against him by October 5, 2016. (Dkt. No. 8 at 2.) Klint filed an untimely response to the
7 order to show cause on October 6, 2016. (Dkt. No. 9.) It consisted solely of conclusions that
8 removal was proper. (*Id.*) Further, Klint makes no attempt to explain why this Court should not
9 deem him a vexatious litigant for filing three previous meritless removal notices. Klint has
10 therefore received notice and had an opportunity to be heard. An adequate record is before the
11 Court, as this is Klint’s fourth meritless removal action. This Court previously found Klint’s
12 removal actions “patently meritless,” *Bank of New York Mellon v. Klint*, C16-1192-JCC (Dkt.
13 No. 5 at 1–2), and now makes a substantive finding that his repeated removal actions are
14 frivolous and intended to harass Plaintiff. The Court hereby finds Klint to be a vexatious litigant
15 and GRANTS Plaintiff’s motion for a vexatious litigant order. As pertains to the current eviction
16 action, Klint must seek and obtain this Court’s formal written permission before bringing any
17 removal or federal action.

18 **III. CONCLUSION**

19 For the foregoing reasons, Plaintiff’s motion to remand, and for sanctions and a vexatious
20 litigant order (Dkt. No. 8) is GRANTED. The Court DIRECTS the Clerk to send a copy of this
21 order to Klint.

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DATED this 11th day of October 2016.

A handwritten signature in black ink, reading "John C. Coughenour", written over a horizontal line.

John C. Coughenour
UNITED STATES DISTRICT JUDGE